

# Choosing Positive Paths

## Parenting, violence and the legal system

Everyone has the right to feel and be safe, yet family violence is still very common. According to Australian statistics (2012), women are most likely to experience violence from a male partner or ex-partner. Three quarters of women who experience family violence are mothers or care for children. Almost half said their children had seen or heard the violence. People caring for a child who has experienced family violence are often worried about how the child is affected.

Children, regardless of their age, do know and respond to what's going on around them.

For children, experiencing family violence means knowing about, seeing or hearing violence in their home. It also means the child themselves can be hurt, abused or controlled. All forms of violence in the family affect children and are types of child abuse. A child's ability to cope can depend on many things.

You can do a lot to help.

This brochure can help you understand and support children who have experienced family violence. Most family violence is directed at women so the language used here is for mothers ('you').

However, the information is also helpful for other primary carers – fathers, grandparents, aunts, family friends and foster parents. The phrase 'your child' means 'a child in your care'; 'dad' or 'father' refers to the child's other parent.

### This brochure contains tips and information about:

- Intervention orders
- Going to court
- Talking to your children
- Where you can get advice and support

Violence is against the law. If you and your child have experienced violence it is possible that you will have contact with police, lawyers and the courts. Going through the legal process is an important step to protect you and your children from violence.

However, these experiences can be confusing and stressful for children. It is important to balance protecting your child from stressful details, while giving them opportunities to talk about their experiences and ask any questions.

**Each family's situation is unique and this information is general. If your children's father is the person using violence and he wants to see the children, you need to seek advice about risk and safety from a family violence service or police and legal advice from a lawyer.**



## Tips for talking to legal services

- Write down your concerns before contacting the service
- Take someone you trust to your appointments. They can support you and help you remember what was said
- Set aside plenty of time
- Ask if there is a cost, what the cost is, and how to get help to pay for the service
- Ask about your rights when it comes to protecting your children
- If you do not speak English easily, ask if there is a worker who speaks your language, or if they have an interpreter
- Take notes. In particular, write the name and role of each person that you speak to. This will help if you need to follow anything up later
- Bring any legal papers you have

## Tips for helping your child through the legal process

- Children who have experienced family violence often have mixed feelings for both parents. It is important for them to feel that they do not have to take sides
- Try to avoid your child hearing about your conflicts with their dad or details of the legal process. Think about what they might overhear if you are talking on the phone, or with friends or professionals.
- Appointments may not go ahead if you bring your children
- Tell your family violence worker, police or lawyer if your children saw or heard the violence or if they were hurt so they can be protected

## Going to court

If you have any legal orders about you and your children take them to court.

Going to court may involve multiple visits. If you are worried about being at the court at the same time as the person who used violence, ask the court, a family violence service or police for information on safety options.

Courts do not have child minding facilities and it might take all day, so you will need to organise child minding or bring someone who can look after your children.

Some things that might help your child are:

- Tell your child's school or childcare that you're attending court that day, so they can support your child emotionally and be particularly aware of their safety
- It can help to give the school copies of any intervention orders that protect you or your child
- Going to court is a long day, bring snacks and activities



## Talking about intervention orders

In Victoria, you and your children can be protected from family violence by intervention orders. You can apply for an order, or police can apply for you. The court that hears these matters is the Magistrates Court.

Your children may know the police have visited or that you are going to court to help make your family safe. Knowing about this can feel overwhelming and stressful for children, and can lead to strong feelings and confusion. Some children worry about what police and courts mean for their family.

### Things you could say

How do you feel about what's happening at the moment?

You know you can talk to me or someone you trust about any of your feelings'

'The police and courts try to help grown-ups stop hurting others. They have made some rules (called an intervention order) to help keep everyone safe'

### If your intervention order means that your child can't see their dad, you could say:

'I wonder how you feel about not seeing or talking to dad at the moment?'

'The rules say that for now dad can't visit us or pick you up from school/childcare. If you see dad at school or childcare, tell me or your teacher'

'The grown-ups are working out how, when and where you can talk to or see dad'

'I wish it was different too'

See brochure 1 or 9 and the back page for legal advice and more ideas on what to say.

## Parenting and the family court

The Family Law Act covers divorce, parenting after separation and property settlement. The law states that children have the right to a safe and meaningful relationship with both parents. Both parents are responsible for making decisions and financially supporting their children.

Children also have the right to be protected from seeing or hearing family violence or being hurt. The court needs to know if children are at risk because of unsafe adult behaviour.

The time children spend with each parent after separation can be negotiated between you and their father with the help of a family dispute resolution practitioner, family relationship centre (mediation centres) or family law courts.

### Things you could say

'The family court is a place that helps us work out how much time you will spend with mum and dad.'

'You will meet a person called a family consultant who will play with you and talk about how what you think and feel about what's happening'

'The judge listens to the family consultant and other grown-ups and thinks about what everyone said to try to make a fair decision'

## Talking about the family consultant

Depending on your child's age and level of maturity, the court could consider their wishes when making decisions. Once proceedings have begun your child may be asked to see a family consultant who will write a report making recommendations about parenting arrangements.

Children pick up on your mood and may worry about what going to court means for them and the family. This may also be the first time your child has seen their dad for a while.

### Things you can do

- Prepare them by talking about what to expect, but not what to say. Think about their age and give them as much notice as they need to ease their stress
- Going to court can be a long day; bring snacks and activities to keep your child occupied. Plan a fun child-focussed activity for after your day at court, e.g. go for a picnic

For more information on talking to your child about the family consultant, visit the Family Court of Australia website reports and publications page: [www.familycourt.gov.au](http://www.familycourt.gov.au)

# Who can give you advice

Each situation is different, so it is important to get the right advice. Contact these services for more information about your rights, the courts or other legal options:

## Women's Legal Service

Provides legal advice on family violence law, family law and victims of crime applications. See their website for fact sheets.

(Tues-Thurs, 6.30-8.30pm)

03 8622 0600 for metro callers

1800 133 302 for country callers

[www.womenslegal.org.au](http://www.womenslegal.org.au)

## Victorian Legal Aid

Offers legal advice and has language services. They can refer you to your local community legal service.

(Mon-Fri, 9-5)

1300 792 387

[www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

## Aboriginal Family Violence Prevention and Legal Service Victoria

1800 105 303

[www.fvpls.org](http://www.fvpls.org)

## Refugee and Immigration Legal Centre

Offers support for migration law matters.

9413 0100

[www.rilc.org.au](http://www.rilc.org.au)

## Police

In a crisis always call 000. If you need to speak to the police who came to your house, or you want to find out what is happening with your orders see the website.

[www.police.vic.gov.au](http://www.police.vic.gov.au)

## Magistrates court

This court is where you will go if the police apply for an intervention order or if you want to apply. Ask the police or see the website for your local magistrates court.

[www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au)

## Family court

This court covers divorce, parenting after separation and property settlement. Recovery orders and passport watch applications are heard here.

1300 352 000

[www.familycourt.gov.au](http://www.familycourt.gov.au)

## Family Relationships

Mediation or dispute resolution services help parents negotiate parenting plans. Tell them if you have experienced family violence so they can assess you for their service. The Family Relationships Advice Line can refer you to these services.

1800 050 321

## Victims of Crime

If you or your children are victims of criminal family violence, you can apply for assistance. If your ex-partner is convicted and jailed, you can apply to be on the Victim Register, so the parole board considers your family's safety when granting him bail.

1800 819 817

[www.victimsofcrime.vic.gov.au](http://www.victimsofcrime.vic.gov.au)

## Tenancy rights

If you have an intervention order with an exclusion clause your ex-partner can be removed from your rental property lease. You can get support at the Victorian Administrative Appeals Tribunal or legal service.

03 9628 9755



## Crisis services

If you are in immediate danger call:

**Victoria Police 000**

## Safe Steps

1800 015 188

24hr family violence response line for women

## Men's Referral Service

1300 766 491

24hr family violence support line for men

## Women and children's services

If you think you are experiencing family violence contact the service in your region (Mon-Fri, 9-5):



### Berry Street

Northern suburbs

(03) 9450 4700

Grampians

(03) 5330 5000



### Women's Health West

Western suburbs

(03) 9689 9588

## Referral services

Call these services to find the closest family violence service to you:

### WIRE Women's Support Line

1300 134 130

### 1800 RESPECT

1800 737 732

Please photocopy any part of this parenting kit freely. For extra copies call Women's Health West or Berry Street, or download the kit from our websites: [www.whwest.org.au](http://www.whwest.org.au) or [www.berrystreet.org.au](http://www.berrystreet.org.au)

Women's Health West and Berry Street acknowledge the support of the Victorian Government

